

Session 14-03, a Regular Meeting of the Homer Advisory Planning Commission was called to order by Chair Venuti at 6:30 p.m. on February 5, 2014 at the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

PRESENT: COMMISSIONERS BOS, HIGHLAND, SLONE, STEAD, STROOZAS, VENUTI

ABSENT: SONNEBORN

STAFF: CITY PLANNER ABBOUD  
DEPUTY CITY CLERK JACOBSEN

### **Approval of Agenda**

Chair Venuti called for a motion to approve the agenda.

BOS/HIGHLAND SO MOVED.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

### **Public Comment**

The public may speak to the Planning Commission regarding matters on the agenda that are not scheduled for public hearing or plat consideration. (3 minute time limit).

There were no public comments.

### **Reconsideration**

#### **Adoption of Consent Agenda**

All items on the consent agenda are considered routine and non-controversial by the Planning Commission and are approved in one motion. There will be no separate discussion of these items unless requested by a Planning Commissioner or someone from the public, in which case the item will be moved to the regular agenda and considered in normal sequence.

- A. Approval of Minutes of January 15, 2104 meeting
- B. Decision and Findings for CUP 2014-01 Request for more than one building containing a Permitted principle use on a lot, a 4 plex at 4165 Mattox Road

Chair Venuti called for a motion to approve the consent agenda.

HIGHLAND/BOS SO MOVED.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

## **Presentations**

### **Reports**

- A. Staff Report PL 14-09, City Planner's Report

City Planner Abboud reviewed his staff report. There was brief discussion regarding the Erosion and Sediment Control Training.

### **Public Hearings**

Testimony limited to 3 minutes per speaker. The Commission conducts Public Hearings by hearing a staff report, presentation by the applicant, hearing public testimony and then acting on the Public Hearing items. The Commission may question the public. Once the public hearing is closed the Commission cannot hear additional comments on the topic. The applicant is not held to the 3 minute time limit.

- A. Staff Report 14-06, CUP 2014-02, 560 Noveiw Ave. Request for use of property as a day care facility

City Planner Abboud reviewed the staff report. City Planner Abboud noted that the Commission had the opportunity to review the laydown comments during the worksession.

Susannah Webster, owner of Small Pond Childcare, reviewed her plan to build a single story home to use as a licensed childcare facility. She explained that the State recognizes her facility as a child care home. She explained that she does not plan to live on site and so the City requires a conditional use permit. She will be licensed by the State to care for up to 16 children and all plan reviews will be done prior to building. She plans to construct a low fence to surround the back yard and create a safe play area. She will ensure parents are mindful of the surrounding homes and neighbors when dropping off and picking up children. Her hours of operation are 8:30 a.m. to 5:30 p.m. Monday through Friday. She doesn't foresee any negative impact on the surrounding area. She believes a small childcare facility in the area will be a benefit to local families as well as the character of the undeveloped neighborhood. She is committed to the task of helping families raise secure, empowered, and enthusiastic learners and growing the type of community we wish to live in.

Chair Venuti opened the public hearing.

Penny Kramer, city resident and adjacent property owner, offered some laydown information for the Commission and commented in opposition to the CUP. She said the public hearing notice was misleading in that it identifies the commercial childcare preschool facility as a single story home. A home daycare has a maximum of five children including those that live there. She also objects because of the noise, this will decrease her property value, the lot is smaller than the facilities current location, her home is 10 feet away, a portion of the play area would be in the utility easement, parking concerns, and increased traffic. There are many lots in Homer that would be far more appropriate for this facility.

Jan Jager, city resident and adjacent property owner, commented in opposition to the CUP. She objects because of the noise that could impact 12 hours of their everyday life, increased activity,

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parking concerns, increased road traffic, lack of recourse to the noise, a low fence will not be adequate, and the smaller lot size.

Pauline Benson, city resident and property owner in the area, agrees with the previous comments in opposition of the CUP. She reiterated that this will devalue the property and increase the traffic the quiet neighborhood.

David Knight, city resident and property owner in the area, commented in opposition to the CUP because of the increased noise and traffic, most of the people who sent letters of support don't live in their area, concerns about parking, and inadequate street infrastructure as there are no sidewalks along the road.

Aulikki Knight, city resident and neighboring property owner, commented in opposition to the CUP. It will bring in excessive traffic and noise that will continue for years to come. She doesn't recognize the people who sent letters of support as her neighbors, and the day care is already in business so it doesn't have to relocate to this neighborhood.

Rebecca Clarke, non-resident, commented in support of the CUP. Her daughter is enrolled at Small Pond and people aren't realizing that there aren't 16 children there all day. There are different schedules for the programs. She believes there are letters from people within 300 feet of the property. People who purchase property in an area should know what is allowed for the area before they buy. This will be good for the neighborhood and for the community.

Rudy Multz, city resident, commented in support of the CUP. His daughter goes to Small Pond two days a week, and he thinks this is a good place for children to be and people in the community deserve an opportunity to do what they do. It is a quality child care, which is hard to find in Homer. There are a lot of rules in place, Susannah is very conscientious. He thinks this is a good area for the daycare it is quiet and off the main streets. The current location has a lot of traffic in the area.

There were no further comments and the public hearing was closed. Chair Venuti opened the floor to rebuttal from staff and the applicant.

City Planner Abboud had no comments.

Ms. Webster clarified that home day cares are licensed for up to 12 children. She noted a few daycare homes where the in the area where the providers live on site located on Rangeview and Soundview that are licensed for 12 children. If she were choosing to build a bigger structure and live on site, she would not need a CUP for her business because it would be allowed outright. She said she is not expanding as she has no interest in being a daycare center. For the number of children she licensed to have, she is not required to have extra staff, but she prefers to have the extra support throughout the day to ensure high quality care, and there are never four staff on site at one time. In general there are two cars parked on site during business hours. She recognized the smaller lot size and noted that there are 25 empty lots in the undeveloped neighborhood. As Homer continues to grow, all of the lots will be developed and it won't always be this quiet park like setting. There is nothing to stop a string of property owners from putting up four-plexes without a conditional use process. In relation to finding another property, because she doesn't intend to live in the facility she will always require a CUP, so they will continue to have to go through this process. She doesn't feel like she runs the kind

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of business nor has the reputation that anyone should fear her or the children in her care. She also encouraged the neighbors to visit her current location and see how it is run. She feels it would dispel a lot of the fear.

In response to questions from the Commission, Ms. Webster explained that she is currently licensed for 16 children. She has 6 to 8 children daily for the toddler program, 6 for the preschool program, and at any given time she could have a maximum of 14 children. She currently rents the facility she is at now and it is an older structure. She employs 4 staff who work staggered shifts. Ms. Webster gave an overview of the training relating to early childhood education and the Conscious Discipline program. Kids will be kids, but their outdoor playtime is not about children running around and screaming as loud as possible. She also responded she would be open to the concept of a more substantial style of fence from the one at her current facility.

Ms. Webster said that while her daughter and a few of the other children's siblings come for afterschool care, it is not a program that she intends to expand, and her handbook says preschool aged children. She reviewed the different tiers of licensing with the state and how the city defines a daycare home versus a facility. Ms. Webster explained the process in which she will build the building and then the license will be issued once all of her inspections of the building are completed. She also gave an overview of a typical day at her facility starting with her arrival at 8:00 a.m. to start preparing for children to arrive between 8:30 to 9:15. They have their morning routine, then outside play for about 45 minutes before lunch. After lunch are naps, some preschoolers start to leave around 1:30, after rest time there are more activities and, back outside around 4:30 to play until parents arrive to pick children up.

Ms. Webster talked about some of the other locations they looked at but prefers this area as it is low traffic, and safer walking to Hornaday Park and the Pratt Museum. With respect to any formal complaints and issues at her current location, she is unaware of any complaints being filed with the Police. After hearing the concerns from her perspective neighbors, she checked with her existing neighbors to see if they had any issue with her day care, and many were sad to hear that they might be moving and said unequivocally no. There is even testimony from one of her current neighbors stating as such.

They continued to review the differences between state and city requirements and licensing.

BOS/SLOANE MOVED TO ADOPT STAFF REPORT PL 14-10, CUP 14-02 FOR A DAYCARE FACILITY AT 560 NOVIEW AVENUE WITH STAFF RECOMMENDATIONS AND FINDINGS.

Chair Venuti commented that if there was a daycare center next to him, his blood pressure would go sky high, but also knows daycare centers are important to the community.

Commissioner Highland expressed her concern that the subdivision has such small lots with five foot setbacks. The Small Pond program sounds wonderful and in the big picture they are only outdoors about two hours a day. She struggles with the increased traffic this will bring and is challenged with both sides of this. Because of the the unknown intent of future property owners, she doesn't agree with the 7:00 am to 7:00 pm business hours with the permit.

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Commissioner Stroozas commented they should make their decision based upon what we know to be existing today. We can't hypothesize who will be in the structure 10 or 20 years from now. We wouldn't grant a permit to someone who doesn't exist yet. They have to determine if the applicant complies with the zoning and how it impacts the healthy, safety, and welfare of the community. Those are the factors to base a decision.

Commissioner Slone commented that the written comments in support are relevant in that they affirming the quality of the operation, not necessarily where it should be located. He agrees with the concerns tonight, if he were a neighbor, with respect to the noise, traffic, and the effect on the natural environment. There will be more noise at certain times. He commented about the neighborhood appeal due to its quiet nature, and generally people don't look at the zoning to look at what could be allowed in the area. He brought up the notion of a more substantial fence again. He also noted challenges of the zoning in the area.

VOTE: YES: BOS, STEAD, STROOZAS, SLONE  
NO: HIGHLAND, VENUTI

Motion failed.

The Commission took a 10 minute recess to allow Chair Venuti and Commissioner Highland an opportunity to draft findings to support denial.

The meeting resumed and Chair Venuti stated the following findings:

Agreement with findings 1, 2, 5, 6, 8 ,9, and 10

Amend Finding 3 it is not compatible with the with other urban residential uses such a s single family to low rise multiple family dwellings in appearance and trip counts. They feel the trip count could actually be up to 40 per day and find that unacceptable for the district.

Amend Finding 4: A day care facility is expected to negatively impact the adjoining property values in the neighborhood.

Amend Finding 7: The traffic at peak drop off and pick uptimes are not comparable to other permitted uses as bed and breakfasts, multiple family dwellings, rooming houses, hostels, parks, or playground.

Add Finding 11: The noise from this use would be excessive for this neighborhood.

Add Finding 12: The proposed hours of operation are excessive for Urban Residential neighborhood.

### **Plat Consideration**

A. Staff Report PL14-11 Bayview Gardens Subdivision Addition 2 Preliminary Plat

City Planner Abboud reviewed the staff report.

There was no applicant to make a presentation and no public comments.

Question was raised why the applicant is choosing to remove the lot line. City Planner Abboud said his understanding is it's to protect their peace and harmony.

It was confirmed that the 15 foot utility easement is addressed in the plat note.

HIGHLAND/SLOANE MOVED TO ADOPT STAFF REPORT PL 14-11 BAYVIEW GARDENS SUBDIVISION ADDITION 2 PRELIMINARY PLAT WITH STAFF RECOMMENDATIONS.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

### **Pending Business**

- A. Staff Report PL 14-12, Comp Plan Amendment – Considerations for rezoning property in the Baycrest area

City Planner Abboud reviewed the staff report.

The Commission discussed the area and its current zoning in relation to what is expected with the Comp Plan in the area coming down the hill. There isn't any water and sewer in the area and it isn't expected any time soon. The conditions have changed up there but there doesn't seem to be a logical way to link the different zoning together in the area. They recognized that aside from the previous concerns about the Bayview Inn property, there hasn't been a big push for changes in the area and it would be beneficial to hear from property owners if they want to see changes in the area.

It was noted that Council asked them to review the area based on political pressure they got from people with respect to the Bayview Inn who wanted an exception for the use.

STROOZAS/BOS MOVED TO POSTPONE THE COMPREHENSIVE PLAN AMENDMENT FOR CONSIDERATION OF REZONING PROPERTY IN THE BAYCREST AREA TO A FUTURE DATE.

There was discussion that the City Planner could bring back some ideas about putting a notice out to property owners so they can respond to it.

VOTE: YES: HIGHLAND, STEAD, VENUTI, STROOZAS, SLOANE, BOS

Motion carried.

- B. Staff Report PL 14-13, Itinerant Merchants and Mobile Food Service vendors

City Planner Abboud reviewed the staff report. He explained that mobile food vendors are challenging here because in most cases it is a business that parks on a lot and doesn't move for the summer. Mobile food trucks generally drive around to different places throughout their day. He addressed how

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the definitions of Itinerant Merchant and Mobile Food Vendor overlap in the code. Some things to discuss are how to allow it or whether to permit it so it is clearer what people can do; whether to extend the Itinerant Merchant license be longer than 60 days; or whether to consider proximity to other businesses they compete with.

There was discussion that mobile food vendors are popular in larger urban areas. We don't have many in our area, but as Homer grows that could likely change. In larger areas they move around and their customer base grows and moves with them. It could be an issue in a town the size of Homer. Suggestions included:

- Extend permit to 120 days, annually.
- Gather more information about DEC requirements.
- Should there be a different requirement or temporary permit for a mobile type vendor that is staying on a site?
- Mobile Food Vendor should be treated same as Itinerant Merchant.
- Mobile Food Vendors need have a trash bin associated with their services.
- Change Definition of Mobile Food Service to include they can only stay in one location for no more than two hours, then they have to move.
- Shouldn't be allowed to operate within 10 feet of a surface intended for thru-vehicular traffic.
- It should be written into the permit that prior to leaving a site the operator has to clean up any litter.
- Can't operate within XX number of feet of a restroom due to sanitary reasons.
- Address lighting and signage
- Need to get public input.

The Commission agreed by consensus to extend the meeting until 10:00 p.m.

The Commission had more general discussion about mobile food vendors and agreed to discuss this further at a March worksession.

C. Staff Report PL 14-14, Safe Street Standards

Chair Venuti noted the Commission discussed Safe Street Standards during their worksession.

### **New Business**

None

### **Informational Materials**

A. City Manager's Reports from January 13 and 27, 2014 City Council meetings

### **Comments of the Audience**

Members of the audience may address the Commission on any subject. (3 minute time limit)

None

### **Comments of Staff**

Deputy City Clerk Jacobsen commented it was an interesting meeting with the CUP in that the Commission granted a CUP for Small Pond a few years back. It was a different zoning district but the same CUP criteria and the neighbors were supportive.

City Planner Abboud said he would be absent at the next meeting and Julie will be working on some of the storm water stuff. He will going to the Smart Growth Development Conference and he hopes to get more information about Storm Water and Smart Streets while he is there.

### **Comments of the Commission**

Commissioner Stroozas said he will be absent at the next meeting and will be here on March 19<sup>th</sup> if his flight gets in on time.

Commissioner Stead had no comment.

Commissioner Bos said with all the talk about storm water, it would be a good time to hear from the City Engineer about possibilities and solutions for the City regarding storm water, and also the cost for a system to deal with it. He thinks it would be helpful if the general public had an idea of what it would take to deal with storm water. Lastly, he thanked Chair Venuti for his good work.

City Planner Abboud noted there are some regulations and other methods to encourage on a small scale to help keep the infrastructure down. Installing a pipe isn't always the answer. Education and letting people know what they can do individually would be a big part of it.

Commissioner Slone said there have been some comments lately about them being a warm and fuzzy Planning Commission and being receptive to input from the citizens. He received a letter with respect to a CUP they made a decision on a few months ago. The letter was addressed to him personally and he feels the person who took the time to write the letter deserves a response. He doesn't feel like he needs to respond in the sense of why he voted the did, but just an acknowledgement that he received the letter and advise that it is subject of an appeal and he can't comment at this time. He thinks it is a common courtesy. There are a lot of people who don't know how this process works and may think that the way to get something before the Commission is to write a letter to a Commissioner. About 3 years ago there was a local dentist who made an in depth presentation about land at the base of West Hill to make it into parks and sell it to the City. He made his 10 minute presentation and clearly he had no clue that it didn't provide him any leverage to do anything else, and the Commission didn't seem clear on how to respond to him. There is confusion on the part of the citizen and a Commission that feels constrained by the rules that they aren't willing to reach out and communicate on a human level to help explain a process. Not being able to address that engenders a lot of resentment and angst against local government. He recognized it as he was learning the process and others say it to him. If we want to be a warm and fuzzy group, we have to reach out to at least have a basic level of courtesy and acknowledge the citizenry who address them. He plans to respond to the person in the manner to advise it is under appeal, and then disclose his communication when it becomes appropriate. He also raised the question as to whether they give weight to people who give emotional testimony. He feels they should in that they are supposed to be the conscience of the community. The code is an attempt

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to reflect reality in all situations, but it can't. They have other means to deal with issues that aren't directly addressed or are improperly addressed in the code.

Commissioner Highland said she has always had difficulty with them not being able to explain to people when they are doing something incorrectly. Tonight's CUP was difficult for her. It comes back to some of the things allowed in the districts seems so farfetched, like heliports in urban residential. She thinks of urban residential without all these things happening. Maybe it's time to look at more of these things. It was tricky tonight.

Chair Venuti said he will rewrite the findings in a clearer form and get them to staff. He expressed concern about Commissioner Sonneborn being absent, and he hopes she comes back. He commented that this time the CUP was a different scenario and that people are affected by things in different ways. He understands both sides of the picture, as he doesn't know how he would feel about it. He commended everyone on their work tonight.

**Adjourn**

There being no further business to come before the Commission, the meeting adjourned at 10:00 p.m. The next regular meeting is scheduled for February 19, 2014 at 6:30 p.m. in the City Hall Cowles Council Chambers.

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MELISSA JACOBSEN, CMC, DEPUTY CITY CLERK

Approved: \_\_\_\_\_